

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF NEW MEXICO  
3  
4       TERYSA M. WELCH,  
5                   PLAINTIFF,  
6                   vs.                               NO:   CIV-11-0700 KG/SCY  
7       CITY OF ALBUQUERQUE, a New Mexico  
8       Municipality, et al.,  
9                   DEFENDANTS.  
10

11           TRANSCRIPT OF OPENING STATEMENT OF MR. VILLA FROM  
12           THE TRIAL PROCEEDINGS - VOLUME I  
13           BEFORE THE HONORABLE KENNETH J. GONZALES  
14           MONDAY, MAY 14, 2018; 8:48 A.M.  
15           ALBUQUERQUE, NEW MEXICO  
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9 Also Present: Ms. Terysa M. Welch  
10 Ms. Trish Hernandez  
11 Mr. Trevor Wiggins  
12 Ms. Elizabeth Paiz  
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2           (Opening statement of Mr. Villa.)

3           THE COURT: All right. Opening statements, Counsel.

4           MR. VILLA: Thank you, Your Honor.

5           THE COURT: Mr. Villa, I may have asked, do you need  
6 a five-minute time warning?

7           MR. VILLA: I think -- I'll be happy to take one, but  
8 I'll keep my time also.

9           THE COURT: All right.

10          MR. VILLA: May it please the Court?

11          THE COURT: Counsel.

12          MR. VILLA: Ladies and gentlemen of the jury. Good  
13 morning. Thank you for your time.

14          What I'm showing you now on your screen is a fitness  
15 assessment of Terysa Welch's from May 2004, in which her  
16 sergeant, her supervisor wrote on there on the left side "I  
17 want to have children with you!" Now, this wasn't an isolated  
18 incident, ladies and gentlemen. Her supervisor, the supervisor  
19 over her unit, ROP unit throughout the time he was her  
20 supervisor and later her lieutenant sexually harassed Terysa  
21 Welch. This is just one example of the beginning.

22          He constantly made comments about her, commented  
23 about her looks, said things about the clothes she was wearing,  
24 referred to her body as being tight as a drum, made comments or  
25 sounds like ummm, looking at her body, especially in the

1 summertime when it was warm, and constantly told her -- or told  
2 her on a number of different occasions that if he wasn't  
3 married, he would be pursuing her.

4 And it got to the point that she was very  
5 uncomfortable around him, tried to avoid him, realized that he  
6 didn't do it when other detectives or other individuals in the  
7 unit were around, and so she tried to have other people with  
8 her when she was in contact with her sergeant and avoided him.  
9 In fact, his cubical was close to an exit door, and she would  
10 often avoid that exit door simply to avoid her sergeant, Robert  
11 Smith.

12 And you have to understand the way it worked at the  
13 time in this unit. The ROP unit, the Repeat Offender Project,  
14 was a group of detectives that went after the worst of the  
15 worst in Albuquerque. Repeat offenders. That's why it's  
16 called the Repeat Offender Project, or ROP. It was within the  
17 larger division of APD called SID, or the Special  
18 Investigations Division. And the sergeant at the time from  
19 2004 to 2006, 2007 of ROP was Sergeant Robert Smith. And he  
20 had known Terysa. They were detectives in the same unit  
21 earlier in time, but she hadn't had this experience with him  
22 yet.

23 And when Terysa got into ROP, it was an incredibly  
24 competitive process. There were about 15 individuals who were  
25 applying for ROP. They had to go through a fitness evaluation,

1 shooting, a written test, an oral test. It was a coveted  
2 position. And Terysa coveted it since the day she went to the  
3 Academy. As a matter fact, since she was a young girl, she  
4 wanted to be in law enforcement. Her grandfather was a chief  
5 of police in a small town in Montana, and ever since she was a  
6 young girl, that's what she wanted to do. And she was used to  
7 playing with the boys, didn't have any problem with that,  
8 understood that it was a male-dominated profession. In fact,  
9 there were only two women that graduated in her Academy in  
10 1997. And from the time she began to be a police officer at  
11 the Academy when the ROP team came in, the ROP unit came in and  
12 talked to them, she decided, That's what I want to be, that's  
13 my goal, I want to be in the ROP unit.

14           When 2004 finally rolled around, she had already  
15 applied for ROP previous times, went through the process that I  
16 told you about, and made it in. She was elated. She loved the  
17 job. Unfortunately, she didn't know what was going to happen  
18 with Sergeant Robert Smith.

19           Now, as I told you, Sergeant Smith got promoted  
20 around 2006, 2007 and he became lieutenant. Lieutenant in SID  
21 isn't just in charge of ROP. The lieutenant is in charge of  
22 many different divisions in SID. So Terysa didn't see  
23 Lieutenant -- now Lieutenant Smith very often anymore, but he  
24 still did the things I told you about, still made comments when  
25 he had the opportunity. But when he was the sergeant, he was

1 in charge of ROP he was. That's who Terysa and everybody else  
2 answered to, that's who controlled, that's who was the  
3 supervisor.

4 And as you heard from the judge, in a lawsuit against  
5 the City for sexual harassment, the supervisors are the City.

6 Terysa also has claims in addition to the sexual  
7 harassment claims for discrimination and retaliation. And  
8 that's what this case is about, sexual harassment, sexual  
9 discrimination, and retaliation.

10 Now, for harassment and discrimination, which she has  
11 to prove, is that her sex or gender was a motivating factor in  
12 the actions. And what you'll hear about when she got to ROP is  
13 there was hostility. So sexual harassment is not just the  
14 things that you saw Sergeant Smith doing, but also other  
15 hostility that's based on her sex, based on her gender. And  
16 you'll hear that there were individuals in the unit, in the ROP  
17 unit, like Kevin Gange who never really liked Terysa, they  
18 never got on along, they always clashed. There were other  
19 individuals who were vocal about Terysa when she was selected  
20 in the ROP unit. They didn't want Terysa in the unit. And  
21 there were some that she got along just fine with and worked  
22 well with and didn't have any problems.

23 But she experienced hostility from the beginning she  
24 came into ROP, not only from her sergeant, but from her fellow  
25 detectives. One of the things that you'll hear about, when

1 you're in ROP, there always has to be a sergeant. ROP is a  
2 unit that can be activated at any time, so you'll always have a  
3 detective on call, you'll have a secondary detective for on  
4 call, and even the whole unit can sometimes be activated if  
5 there's a high-profile situation, a dangerous fugitive, a  
6 homicide, and so these detectives were essentially on call the  
7 entire time.

8           They didn't wear uniforms. They dressed in street  
9 clothes so that people couldn't identify them as police. They  
10 drove around in vehicles. They were not recognizable as police  
11 vehicles. And they needed to be ready even if they weren't at  
12 the office to take a call and be activated at any time, and  
13 because of that there always needed to be a sergeant. And  
14 sometimes the sergeant was on vacation or sick leave or taking  
15 the day off and things like that, so there needed to be what's  
16 called an acting sergeant, and an acting sergeant was typically  
17 one of the detectives in the unit who when they became acting  
18 sergeant essentially were the supervisor in charge of the unit  
19 until the regular sergeant came back.

20           And throughout the time that Terysa was in ROP she  
21 was never made an acting sergeant. It was always somebody  
22 else, one of the other men, and throughout the time she was in  
23 ROP, she was the only female detective. But when you are the  
24 acting sergeant for longer periods of time, you get better pay,  
25 and, of course, you're the supervisor, everybody must respond

1 to you.

2 Now, I told you that in 2007 Lieutenant Smith,  
3 formerly Sergeant Smith became a lieutenant. In 2007, Terysa  
4 had a very traumatic incident occur in her life. She was  
5 dating a fellow police officer, David Maes, and David Maes --  
6 and living with him, and they were engaged to be married, and  
7 David Maes was somebody that kept who he really was from  
8 Terysa. It turned out he was not a good person. He got  
9 charged and arrested for having raped or having sex with a  
10 person that he had in custody. And this happened in about  
11 October of 2007.

12 And Terysa was at work. She didn't know about it,  
13 she hadn't heard about it. She got a call from Lieutenant Rob  
14 Smith, and he was asking if she was there at the station. She  
15 said yes. He came down, grabbed her hand, and said, "Let's go  
16 out to the parking lot."

17 They go out to the parking lot. He asks her if she  
18 wants to have coffee or get breakfast. She was very concerned.  
19 She knew something was wrong, she just wanted to know what was  
20 wrong. And Lieutenant Rob Smith then grabbed her, hugged her  
21 very, very tightly, still hadn't told her what was going on,  
22 and Terysa insisted, you know, "I want to know what's going on.  
23 Tell me what's going on," and he told her.

24 And during this time that he told her, he was very,  
25 very pushy. He said, "Let me take you home. I'll take you



1 home. I'll take care of you." Almost in a sexual manner. And  
2 he repeated the statement to her that he had made many times,  
3 that if she wasn't married -- excuse me -- if he wasn't  
4 married, he would be pursuing her. He said this to her during  
5 this extremely traumatic period in her life.

6 And after he finally told her what was going on, she  
7 took a week off, went to Montana to be with her family, and  
8 during that period of time Lieutenant Smith called her every  
9 day, and she continued to feel very uncomfortable by this  
10 conduct of his.

11 Well, she got back, and as things had gone with the  
12 ROP unit from the time she was there through about 2009, she  
13 continued to have problems with some of the individuals in the  
14 ROP unit. Not all of them. Kevin Gagne being one of them.  
15 And the new sergeant, Sergeant David Hubbard. They had  
16 conflicts throughout the time that he became the sergeant once  
17 Sergeant Smith, Rob Smith promoted to lieutenant. And it was  
18 certainly no secret that they didn't like each other.

19 In July of 2009, Terysa and another detective, Mike  
20 Hill, were with Kevin Gagne, someone that Terysa had some  
21 problems with, and at the time Kevin Gagne was the acting  
22 sergeant, and they had just completed an operation, I believe  
23 they arrested somebody, they were sitting around talking, and  
24 Acting Sergeant Gagne told Detective Hill and Detective Welch  
25 to be at the station tomorrow, the next day, to meet up, they

1 were going to meet up and then the whole ROP team was going to  
2 go to the range. A lot of times they would go to the shooting  
3 range because they had to shoot and practice. They were  
4 qualifying and shooting all the time.

5 So following those orders Detective Welch, Terysa,  
6 went to the main station, and Mike Hill was there, the other  
7 detective that was with her, but she realized after doing some  
8 time sheets and sort of waiting for everybody to show up, she  
9 realized nobody was there, so she talked to Detective Hill.  
10 Detective Hill decided to call Sergeant Hubbard, and they  
11 realized that the ROP team was all out at the range. They had  
12 gone straight there. They weren't meeting at the station.

13 And after that happened, Sergeant Hubbard gave Terysa  
14 what we're going to call a punctuality memo. And the  
15 punctuality memo referred to her missing this training at the  
16 range as well as to a previous incident that she missed a  
17 briefing, but she had actually comped out or told at that time  
18 a different acting sergeant that she had a personal  
19 appointment, she was going to be comped out for this period of  
20 time, and so she wasn't at a briefing. But Sergeant Hubbard  
21 put that in the memo, that missed briefing and the missed  
22 training and gave her this punctuality memo, which would go in  
23 his file. And sergeants would keep files on their detectives  
24 that they could pass along to the next sergeant or keep for  
25 themselves as the way things go in the police department.

1 Well, at that point, Terysa had had it. She had  
2 enough. She was a very punctual person, and took offense to  
3 the fact that she was accused of this when, in her view, she  
4 didn't do anything wrong. She comped out for the briefing, she  
5 followed the orders of Acting Sergeant Gagne to go to the  
6 police station, and Detective Mike Hill didn't get a  
7 punctuality memo. So she was upset about that as well, and she  
8 tried to address this with Sergeant Hubbard, and Sergeant  
9 Hubbard didn't want to hear her.

10 And because the police department is a paramilitary  
11 organization, what you must do in that situation is go up the  
12 chain of command. And next in the chain of command from  
13 Terysa, from her sergeant was Lieutenant Smith. So in order to  
14 essentially challenge this memo, she had to go up the chain of  
15 command.

16 So after trying to address it with Sergeant Hubbard  
17 over the phone, essentially, she asked Lieutenant Smith if he  
18 could meet -- she could meet with him about it, and he said  
19 yes.

20 Well, that was in the morning of the day that they  
21 went to the firing range, a different day, and then so the next  
22 day she went to Lieutenant Smith's office, and walked in the  
23 office, she had the memo, she had the comp slip for the  
24 briefing that she missed ready to explain to him what happened,  
25 and instead of Lieutenant Smith listening to Terysa tell what

1 happened, he immediately started talking about her performance,  
2 her performance in ROP and whether she was up to snuff.

3 Now, these detectives get performance evaluations  
4 every year and they also get monthly reports on their -- the  
5 things they've done for the month, and throughout Terysa's  
6 career she had never, ever received any bad marks on any  
7 performance evaluation, nobody had ever said "Hey, you're not  
8 performing the way we want you to." This had never come up  
9 before. And Terysa was a bit taken aback.

10 And Lieutenant Smith during this meeting was being  
11 very forceful and talking about these performance issues that  
12 Terysa was not prepared to talk about. And she quickly told  
13 him that she might file a claim, an EEOC claim because she felt  
14 like the treatment she was receiving at ROP, the memo that she  
15 got was unfair.

16 And Lieutenant Smith, of course, knowing the history  
17 they've had since 2004, said to her, "Well, I hope I've got  
18 some loyalty coming my way." And the comment referred to what  
19 probably was, it was Smith in the end who wanted Terysa or  
20 wanted a female in the ROP unit because he saw a female as an  
21 asset to the ROP unit. And I guess as you'll hear, he wanted  
22 Terysa in the ROP unit for other reasons.

23 But he told her "I hope I have some loyalty coming my  
24 way" and told her "You can't do it, you can't file an EEOC  
25 claim, I won't let you."

1           Now, Lieutenant Smith's going to deny he said that.  
2           He's going to admit that he wrote this, and he'll tell you  
3           that, "Well, that's just my sense of humor, and Terysa and I  
4           always engaged in playful banter and flitting and those sorts  
5           of things," which you'll hear the evidence about and you decide  
6           for yourself whether you think that's true.

7           One thing that Terysa did say to Sergeant Smith and  
8           later Lieutenant Smith when he kept saying things to her about  
9           "Gosh, if I wasn't married, I would be pursuing you" or other  
10          things that he liked to talk about, Terysa to deflect would  
11          often say "Maybe in the next life," you know, to get him to  
12          stop talking about those types of things.

13          Now, after talking to Lieutenant Smith about the  
14          memo, Terysa continued to follow the chain of command and went  
15          to the next person up. It used to be called the captain. Now  
16          it's called the commander. But that's who's over Lieutenant  
17          Smith, and that was Joseph Hudson. And Joseph Hudson, who was  
18          not mean or rude to Terysa the way Lieutenant Smith was, said,  
19          you know, "Rob, Rob Smith, he's probably going to be the next  
20          commander, so I'm not sure you want to do this. I think you  
21          should tell him that you were wrong and he was right and fall  
22          on your sword. You're not going to win your EEOC claim. You  
23          just shouldn't do it." And after that meeting Terysa, of  
24          course not being satisfied, ultimately decided she was going to  
25          file an EEOC claim.

1 But before that happened, it wasn't certainly lost on  
2 the ROP unit that Terysa had complained up the chain of command  
3 about this punctuality memo and her treatment, and just a day  
4 or so later, maybe two days later Sergeant Hubbard continued  
5 with hostility towards Terysa and he did something that was  
6 very, very dangerous.

7 One of the things that often happened in the ROP unit  
8 was warrant packets would get handed out, and they would hand  
9 them out to partners of two different detectives and say,  
10 "Here's a subject who's wanted, you know, go find him and get  
11 him." And he handed a packet to Terysa without assigning her  
12 backup or a partner, which is life-threatening. And she asked,  
13 "Well, what about backup?" And he said, "Let me know if you  
14 need anything."

15 And this, of course, solidified for Terysa that she  
16 was not in a good place, she was not in a safe place, it was a  
17 hostile environment, and she wasn't going to get relief from  
18 her supervisor, so she filed an EEOC complaint on August 24th,  
19 2009, with the EEOC, the federal EEOC, claiming a hostile work  
20 environment, gender discrimination, and she also took that  
21 complaint to a lieutenant, Lieutenant Doug West in Internal  
22 Affairs hoping that Lieutenant West could also help. And  
23 Lieutenant West assured her that her complaint would stay  
24 confidential, he would only tell the chief, Chief Schultz,  
25 Chief Raymond Schultz, and that they would then look into it.

1 Well, it became very clear to Terysa within the next  
2 few days that her complaint had not been kept confidential and  
3 many, many people knew about it; people knew the number of  
4 pages that it was she had written up, they knew details about  
5 it more than just Chief Schultz and Lieutenant Doug West.

6 Now, the department did remove briefly Sergeant  
7 Hubbard and Robert Smith from the ROP unit after the complaint  
8 was filed, and none other than Kevin Gagne at the time became  
9 the acting sergeant and announced over all of the ROP radio  
10 that Smith and Hubbard were being moved. This occurred in  
11 about late August.

12 And it didn't last very long. Both were brought back  
13 to the unit within just a couple of months. They had not --  
14 The department, as you'll find out, had not addressed any of  
15 Terysa's claims with them when they came back. And Commander  
16 Hudson, who was still overseeing this Special Investigations  
17 Division was intent on disciplining Terysa. As a matter of  
18 fact, in November, this is just a couple of months after she  
19 filed her Complaint, he wrote her a memo saying that Sergeant  
20 Hubbard, who had now been back at the unit, and another  
21 detective, Detective J.R. Potter, who Terysa had accused as  
22 well in this EEOC complaint -- and he was an individual that  
23 was friends with Robert Smith since they were 12 years old.

24 And as a matter of fact, you'll hear that during the  
25 times that they were together in the unit, Detective Potter and

1 Robert Smith would talk often about the size of their penis in  
2 front of Terysa Welch. And they accused Terysa of not covering  
3 them during an operation or dropping out of surveillance. And  
4 Commander Hudson wrote Terysa a memo making her respond to  
5 these allegations. And then shortly after that, because Smith  
6 was back in the unit, Terysa was walking down the hall one time  
7 going to the copy machine and Lieutenant Smith comes back,  
8 walking down the hall toward her, and he walks down the hall  
9 towards her like he's going to knock her over.

10 MS. WIGGINS: Objection. Argumentative.

11 MR. VILLA: This is just what the facts will show,  
12 Your Honor.

13 THE COURT: Well, I guess if you just qualify it that  
14 way.

15 I'll just remind the jury that the opening statement  
16 is not evidence. There will be opportunity for argument at the  
17 close of evidence at the end of trial.

18 Mr. Villa, you may proceed.

19 MR. VILLA: And Terysa will tell you that she had to  
20 get out of the way and stand up against the wall to avoid  
21 Lieutenant Smith. That was the atmosphere in December of 2009.

22 She found in her box a blank transfer request form.  
23 She doesn't know who put it there. But that transfer request  
24 form was of course to transfer out of the ROP unit. And  
25 because she was not feeling safe, because she was feeling



1 scared, she got in communication with Elizabeth Paiz, who was  
2 the deputy chief at the time. As a matter of fact, I think the  
3 testimony will show that Deputy Chief Paiz reached out to  
4 Terysa. And because she didn't feel safe at work, Terysa was  
5 transferred to Burglary, which is a different unit, and it's a  
6 unit that's not as prestigious as ROP and a unit in which there  
7 wasn't as much overtime available.

8 And throughout the time she was transferred to  
9 Burglary, this is from about December 2009 through  
10 approximately the end of 2012, it's a total period you'll hear  
11 of about 18 months, she was hopeful that the situation at ROP  
12 was going to get addressed and she would be able to come back,  
13 but that didn't happen. Lieutenant Smith was allowed to stay  
14 there until the summer of 2010 when he retired. Sergeant  
15 Hubbard stayed there longer than that, and Kevin Gagne was also  
16 still there.

17 And Burglary is not in the Special Investigations  
18 Division. The Special Investigations Division is part of a  
19 separate unit, and, of course, Commander Hudson was still the  
20 commander of the Special Investigations Division for a period  
21 of time, as well. So there's a long back and forth when  
22 Terysa's trying to get back into ROP but doesn't feel safe  
23 because nothing's being addressed to get -- with the situation  
24 she has. She doesn't want to go back without any changes being  
25 made. And throughout the time she spent in Burglary, she lost

1 out on about \$27,000 worth of overtime compared to the overtime  
2 that she made while she was in the ROP unit.

3 Now, I want to talk to you about October of 2010.  
4 She's in Burglary at the time. This is when this -- she's in  
5 sort of this Purgatory position, and she happens to go to  
6 Walgreen's. Now, as I told you, when ROP detectives -- And she  
7 was still using her same vehicle that she had as a ROP  
8 detective. They don't wear uniforms. They have undercover  
9 vehicles. They're in their vehicles almost all the time  
10 because they've got to be ready to respond to a call.

11 Terysa Welch was on her way to her house, she stopped  
12 at a Walgreen's, bought a 12-pack of beer, and it just so  
13 happened that Kevin Gagne was at that Walgreen's and saw her  
14 buy this 12-pack of beer and saw her go then to her ROP  
15 vehicle, and so he called his new lieutenant at the time --  
16 this was Lieutenant Roseman, who took over for Lieutenant  
17 Smith -- and said what he just saw, that he saw Terysa  
18 transporting this alcohol in her car. Well, that's a violation  
19 of policy. Officers aren't supposed to do that. You're not  
20 supposed to transport alcohol in a City vehicle.

21 And if you look at the policies for that violation,  
22 there's different disciplinary ranges. It goes 7 to 1. 7's  
23 the least serious. 1 is the most severe. This is a 6. And  
24 what a 6 calls for is a written reprimand. And you'll hear  
25 that there's testimony that that can be handled by the person's

1 most direct supervisor, so in that case the sergeant or maybe  
2 the lieutenant can write a written reprimand and say, you know,  
3 you violated policy, don't do it again. That's not what  
4 happened with Terysa.

5 What happened with Terysa was the lieutenant who got  
6 the information about this alcohol violation then asked that an  
7 Internal Affairs investigation be opened. And this lieutenant  
8 of course knew about Terysa's circumstance, knew that she was  
9 trying to get back into SID, back into ROP, and none other than  
10 Lieutenant Doug West had become the commander of SID.

11 Now, Lieutenant West was the one that Terysa  
12 originally took her complaint to in Internal Affairs and he  
13 promised her that it would stay confidential, and it didn't.  
14 And Lieutenant West was also intimately involved in the EEOC  
15 investigation and impacted whether he conducted an appropriate  
16 investigation of Terysa's claims.

17 And so now he had become commander. He was  
18 overseeing SID. And after Terysa went through three different  
19 Internal Affairs interviews, not given a written reprimand,  
20 three Internal Affairs interviews, Mr. West, Doug West,  
21 recommended her termination. He didn't recommend a written  
22 reprimand. He recommended her termination. And of course he  
23 knew all about Terysa's circumstances and the Complaint that  
24 she had filed with the EEOC. And it then got reviewed.

25 And let me just back up a minute. What you'll hear

1 from the City is that, well, the reason that we recommended  
2 termination and ultimately a more severe -- a less severe  
3 sanction than that, but more severe than a written reprimand is  
4 that Terysa was not honest in her Internal Affairs interviews.  
5 What Terysa had said in her Internal Affairs was that she  
6 didn't remember the day. The Walgreen's is right by her house  
7 in Rio Rancho. When she was confronted about it, it was almost  
8 three weeks later. And she didn't deny that she went to the  
9 that Walgreen's, she didn't deny that she would buy alcohol in  
10 her City vehicle. She just couldn't remember that specific  
11 day.

12 And of course there was -- there was a video that APD  
13 went out and got, receipts that they got that showed Terysa was  
14 there. She didn't deny that she was there. She just didn't  
15 remember which vehicle she was in. And so that was the basis  
16 for Lieutenant West's recommendation to terminate her.

17 Well, then it was reviewed by Deputy Chief Paiz --  
18 excuse me -- Deputy Chief Feist, who had taken over for Deputy  
19 Chief Paiz and was also dealing with the issue of whether  
20 Terysa should be put back into ROP or stay in Burglary. He  
21 reviewed it and decided he wasn't going to sustain any findings  
22 that Terysa had not been honest, but he did sustain the  
23 findings that she had transported alcohol in her vehicle and  
24 recommended not a termination, but an 80-hour suspension.  
25 Again, Agent Feist answered to Chief Schultz, knew about

1 Terysa's situation and the EEOC complaint that she filed.

2 Well, the next step up after Deputy Chief Feist is  
3 Chief Schultz. And Chief Schultz looked at what Deputy Chief  
4 Feist did and said, "I'll agree, we'll sustain for transporting  
5 alcohol in the vehicle," and he imposed 40 hours' suspension,  
6 which was the final suspension, but made her only serve 16  
7 hours.

8 And what you'll hear, ladies and gentlemen, is you'll  
9 hear from witnesses that did the same thing, transported  
10 alcohol in the vehicle and got verbal counseling. But Terysa  
11 ultimately gets this suspension from Chief Schultz, who knew  
12 about her EEOC complaint.

13 And then what Chief Schultz did was have Terysa's  
14 findings in the Internal Affairs sent to the Law Enforcement  
15 Academy. And the Law Enforcement Academy carries all the  
16 officers' certifications. And so if you don't have a  
17 certification, you can't be a law enforcement officer.

18 They sent that to the Law Enforcement Academy along  
19 with a list of other APD officers who have been accused of much  
20 more serious things, and that was published in the Albuquerque  
21 Journal, in the newspaper. So you can go online and see Terysa  
22 Welch's name along with many other individuals accused of much  
23 more serious charges.

24 And so that, ladies and gentlemen, forms the basis  
25 for Ms. Welch's claims for sexual harassment, discrimination,

1 and retaliation. And she's going to ask at the end of the  
2 trial that you award -- you find that those three things  
3 happened and that you award her damages for those overtime  
4 hours that she missed, the emotional distress she suffered  
5 during this period of time, loss of enjoyment of life, and  
6 damage to her reputation.

7 But, ladies and gentlemen, although she's going to  
8 ask you for that, I want you to understand that this case is  
9 not about her being a victim. It's about her being a survivor  
10 because now she's a lieutenant at APD. She didn't let them  
11 terminate her. She ultimately promoted to sergeant and later  
12 to lieutenant, and that will tell you something a little bit  
13 about her character. And at the end of this trial we'll ask  
14 that you find in favor of the plaintiff.

15 THE COURT: Mr. Villa, you put an exhibit on the  
16 ELMO. And remind me which exhibit was that.

17 MR. VILLA: 166.

18 THE COURT: And then during the course of your  
19 statement you displayed another exhibit. Was that also 166?

20 MR. VILLA: Yes.

21 (End opening statement of Mr. Villa.)

22 \* \* \* \* \*

C-E-R-T-I-F-I-C-A-T E

UNITED STATES OF AMERICA

DISTRICT OF NEW MEXICO

I, Danna Schutte Everett, RPR, CCR, CRR, Official Court Reporter for the State of New Mexico, do hereby certify that the foregoing pages constitute a true transcript of proceedings had before the said Court held in the city of Albuquerque, New Mexico, in the matter therein stated.

In testimony whereof, I have hereunto set my hand on this 20th day of May, 2018.

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May 14, 2018, Welch vs. City of Albuquerque

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